

**THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

VEREIT, Inc.,

Plaintiff,

v.

Nicholas S. Schorsch, Peter M. Budko,  
William M. Kahane, and Edward M. Weil,

Defendants.

Civil Action No.: 17-cv-06546-AKH

**NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE UNDER SEAL CERTAIN  
EXHIBITS TO THE DECLARATION OF JONATHAN OHRING IN SUPPORT OF  
PLAINTIFF VEREIT, INC.'S MEMORANDUM OF LAW IN OPPOSITION TO  
DEFENDANTS' MOTION TO DISMISS OR STAY**

PLEASE TAKE NOTICE that pursuant to Rule 4(B)(i) of this Court's Individual Rules of Practice, Plaintiff VEREIT, Inc. ("VEREIT"), formerly known as American Realty Capital Properties, Inc., by its undersigned attorneys, hereby moves the Court for leave to file under seal a partially-redacted copy of Exhibits D and fully-redacted copies of Exhibits F through H and Exhibits K through P to the Declaration of Jonathan Ohring, filed contemporaneously herewith.

Exhibit D is a true and correct copy of an agreement between VEREIT and VEREIT Operating Partnership, L.P., formerly known as ARC Properties Operating Partnership, L.P., on the one hand, and Defendants, on the other hand, entered into on November 20, 2015, which tolled certain claims between the parties (the "Tolling Agreement"). The Tolling Agreement contains a reference to a separate agreement, which contains a confidentiality provision prohibiting its disclosure. Accordingly, VEREIT seeks to redact on page 1 of the Tolling Agreement the reference to that separate agreement.

Exhibits F through H are true and correct copies of filings in an action in the Supreme Court of New York, New York County, captioned *VEREIT Operating Partnership, L.P. v. Weil, et. al.*, Index No. 655580/2017, which were filed entirely under seal in accordance with applicable New York law, including Section 216.1 of the Uniform Rules for New York State Trial Courts. Accordingly, VEREIT seeks to file these documents under seal.

Exhibits K through P are true and correct copies of filings in an action in the Delaware Court of Chancery captioned *Weil, et. al. v. VEREIT Operating Partnership, L.P., et. al.*, C.A. No. 2017-0613-JTL (Del. Ch. filed Aug. 29, 2017), which were filed confidentially in accordance Delaware law, including Rule 5.1 of the Rules of the Delaware Court of Chancery. Pursuant to such rules, access to these filings is prohibited except as authorized by court order. Accordingly, VEREIT seeks to file these documents under seal.

Therefore, pursuant to Rule 4(B)(i) of this Court's Individual Rules of Practice, VEREIT is contemporaneously herewith (i) filing on ECF a partially-redacted copy of Exhibit D and fully-redacted copies of Exhibits F through H and Exhibits K through P, (ii) submitting unredacted copies of the same to the Court, and (iii) serving upon the Defendants in the above-captioned action unredacted copies of the same.

Dated: November 17, 2017  
New York, New York

MILBANK, TWEED, HADLEY  
& McCLOY LLP

By: /s/ Jonathan Ohring  
Scott A. Edelman  
Alan J. Stone  
Jonathan Ohring  
28 Liberty Street  
New York, New York 10005  
Telephone: (212) 530-5000  
Facsimile: (212) 506-5219

*Attorneys for Plaintiff VEREIT, Inc.*